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SIPDIS

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TAGS: [PHUM](#) [PGOV](#) [PREL](#) [KJUS](#) [COE](#) [AM](#)
SUBJECT: ARMENIAN JUDGE SEEKS LEGAL PRECEDENT TO REMOVE
DEFENDANTS FROM COURTROOM

Classified By: DCM Joseph Pennington, reasons 1.4 (b,d)

¶1. (C) The judge who heads the criminal division of Armenia's Cassation Court sought the Embassy Regional Legal Adviser (RLA) office's help January 15 in obtaining Armenian translations of European Court of Human Rights (ECHR) case law pertaining to cases in which defendants have waived or forfeited their rights to be physically present in the courtroom at trial. RLA provided relevant translations, which were available on-hand. This follows a prosecution motion in the latest hearing in the so-called "Trial of Seven" case for the judge to invoke ECHR case law as justification to remove the unruly defendants from the courtroom. The "Trial of Seven" defendants -- charged with offenses related to the post-February 2008 election political clashes -- have systematically disrupted each of five attempts, to date, to hold hearings and have successfully prevented the trial from proceeding.

¶2. (C) Armenian law provides no mechanism for the judge to remove unruly or disruptive defendants from the courtroom so that a trial may proceed. The Armenian constitution provides an absolute right for the defendants to be present. The "Trial of Seven" defendants have abused this right and successfully prevented their trial from proceeding, with a constant barrage of noisy interruptions, insults, slogans, and catcalls, as the judge attempts to hear the case. Armenian law and practice provide no clear means of imposing decorum in the courtroom.

¶3. (C) COMMENT: With this overture, it seems likely that the court is trying to find a ECHR justification for undertaking practical and reasonable steps to regain control of the courtroom and allow the Trial of Seven to proceed. This is a reasonable and laudable goal. The problem faced by the judge in this case is just one symptom of the larger problem with Armenia's Soviet-legacy criminal justice system: there has always been such a large gap between ivory-tower legal theory and a (generally) corrupt and politically-driven set of practices that the system has never been given the legal and procedural tools to work in a practical, real-world courtroom environment.

YOVANOVITCH